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8 Attorneys for Defendant  
9 DARDEN RESTAURANTS, INC. d/b/a/ YARD  
10 HOUSE RESTAURANTS

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FINAS D. BAREFIELD JR.,

Case No. 3:14-cv-03733-CRB

Plaintiff,

**DECLARATION OF THEODORA R. LEE  
IN SUPPORT OF DEFENDANT'S  
MOTION TO ENFORCE SETTLEMENT  
AGREEMENT OR, IN THE  
ALTERNATIVE, DISMISSAL**

v.

DARDEN RESTAURANTS, INC. d/b/a  
YARD HOUSE RESTAURANTS,

Defendant.

Date: July 17, 2015

Time: 10:00 a.m.

Dept.: 6, 17th<sup>th</sup> Floor

Judge: Charles R. Breyer

Complaint Filed: August 18, 2014

Trial Date: None Set

1 I, THEODORA R. LEE, hereby declare as follows:

2 1. I am shareholder with Littler Mendelson, P.C. in San Francisco, California,  
 3 and am the attorney primarily charged with the defense of this action. The information set forth in  
 4 this declaration is based upon my personal knowledge, and if called to testify, I would be competent  
 5 to testify as to what is set forth herein.

6 2. On April 10, 2015, I appeared on behalf of Defendant at a settlement  
 7 conference in front of Magistrate Judge Maria-Elena James. At the settlement conference, Judge  
 8 James issued an order where she declared, among other things, that the case settled in full. A true  
 9 and correct copy of this order is attached hereto as Exhibit A.

10 3. The transcript of the April 10, 2015 settlement conference was on record and  
 11 in open court. While on record, I informed the court that "My understanding is we've reached a  
 12 settlement at the financial sum of \$5,000, that it is going to be confidential, with a liquidated  
 13 damages clause of \$1,000, and that Mr. Barefield will defend and indemnify Darden against any  
 14 claims that might be filed by his relatives, and there will be a general release." When the court  
 15 asked if Mr. Barefield understood those terms, Mr. Barefield responded: "Yes, I understand, and I  
 16 agree with it." A true and correct copy of the transcript is attached hereto as Exhibit B.

17 4. On April 14, 2015, Judge Charles R. Breyer issued an Order of Dismissal  
 18 without prejudice under the assumption that the Parties had agreed to a settlement of the case. The  
 19 Order reads: "IT IS HEREBY ORDERED this case be dismissed without prejudice; provided,  
 20 however, that if any party hereto shall certify to this Court, within thirty (30) days, with proof of  
 21 service of a copy thereon on opposing counsel, that the agreed consideration for said settlement has  
 22 not been delivered over, the foregoing Order shall stand vacated and this case shall forthwith be  
 23 restored to the calendar to be set for trial." A true and correct copy of the order is attached hereto as  
 24 Exhibit C.

25 5. On May 4, 2015, I emailed a word version of the Final Settlement Agreement  
 26 to Plaintiff and stated "Attached for you[r] signature is the Settlement Agreement. Please sign and  
 27 pdf or mail back to our office. Once we receive, then we can begin processing your check." A true  
 28 and correct copy of the email and the attachment to the email are attached hereto as Exhibit D.

1           6.     On May 6, 2015, in-house counsel for Defendant Darden told me that he had  
 2 received directly an email from Plaintiff containing a pdf version of a settlement agreement that  
 3 contained a different amount than the one agreed upon. The email Plaintiff sent directly to  
 4 Defendant stated: "Attached are the signed settlement documents and my W-9." A true and correct  
 5 copy of the email chain and Plaintiff's pdf version of the settlement agreement are attached hereto as  
 6 Exhibit E.

7           7.     On May 7, 2015, I wrote an email directly to Plaintiff notifying him that his  
 8 modification of the settlement agreement was fraudulent and contrary to the parties' agreement. I  
 9 also gave him a May 15, 2015 deadline to sign and return the original settlement agreement directly  
 10 back to me. I further warned him that I would seek sanctions if he did not sign the agreed-upon  
 11 Settlement Agreement. A true and correct copy of the email is attached hereto as Exhibit F.

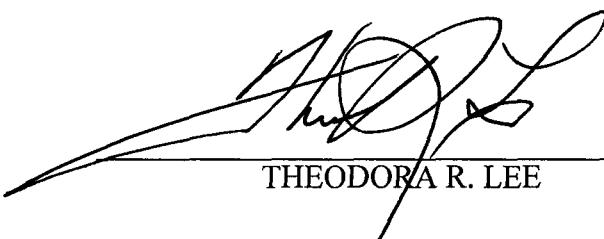
12           8.     On May 12, 2015, I learned that Defendant received a service of process  
 13 notice that indicated that Plaintiff had taken his version of the settlement agreement and filed it with  
 14 a United States Bankruptcy Court in Florida. A true and correct copy of the Darden Service of  
 15 Process email chain is attached hereto as Exhibit G.

16           9.     On May 13, 2015, I wrote another email directly to Plaintiff informing him  
 17 that: [t]here are no pending Bankruptcy proceedings, and further advising him that his conduct  
 18 constituted fraud upon the Court. I advised that his continued fraudulent conduct would subject him  
 19 to sanctions in Federal District Court. A true and correct copy of the email chain with the original  
 20 Settlement Agreement is attached hereto as Exhibit H.

21           I declare under penalty of perjury under the laws of the United States and the State of  
 22 California that the foregoing is true and correct.

23           Executed this 9th day of June 2015 at San Francisco, California.

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THEODORA R. LEE

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